

REMARKS

Status of the Claims

Claims 1 – 22 are pending, with claims 1 and 15 being independent. Without conceding the propriety of the rejection, claims 1 – 4 and 15 have been amended to even more clearly recite and distinctly claim the invention. Support for the amendments may be found in the original claims as well as throughout the specification. Therefore, no new matter has been added.

Applicant respectfully requests the Examiner to reconsider and withdraw the outstanding rejections in view of the following remarks.

The Present Invention

The presently claimed invention relates to a blended hydrocarbonaceous product comprising a Fischer-Tropsch derived product and an effective amount of a temporary antioxidant such that the blended product has a peroxide number of less than 5 ppm after 7 days. The temporary antioxidant is the only antioxidant present in an effective amount. In an embodiment the temporary antioxidant is a sulfur-containing temporary antioxidant and the sulfur content of the blended hydrocarbonaceous product is ≥ 1 ppm.

The specification discloses that a “temporary antioxidant” is any antioxidant that is more volatile than the Fischer Tropsch product such that it can be removed by processes such as simple distillation or stripping and the like.

The specification discloses that an effective amount of a temporary antioxidant is the amount that provides a product having a final peroxide number of less than 5 ppm, preferably less than 3 ppm, and most preferably less than 1 ppm after 7 days. (Page 14, Paragraph [0060]).

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1 – 22 are rejected under 35 U.S.C. § 103(a) as being obvious over Alward (U.S. Patent No. 5,453,211). Applicant respectfully disagrees with this rejection; therefore, this rejection is traversed.

Alward relates to improving the oxidation stability of lube base oils by the addition of tetralins or combination of tetralins and organic sulfides. Alward discloses

that it has been discovered that the ability of lubricating oil basestocks and formulated lubricating base oils to resist oxidation can be improved by the use of additives selected from tetralins or alkylated tetralins or mixtures thereof or the combination of tetralins or alkylated tetralins or mixtures thereof and organic sulfides. (Column 2, Lines 5-10, and Claim 1). Alward discloses that an amount of organic sulfide, *may be used in combination with* the tetralin or alkyl substituted tetralin. (Col. 3, lines 5-11, emphasis added). Alward further discloses that the tetralin or alkyl substituted tetralin can be used with *or without* organic sulfides. (Col. 3, lines 27-29).

Accordingly, to improve the oxidation stability, Alward discloses that a tetralin or alkylated tetralin is to be used. (Col. 2, lines 21-24). Tetralin has a boiling point of 207°C and thus does not meet the definition of a temporary antioxidant according to the present invention. Alkylated tetralins would have even higher boiling points.

In contrast, the presently claimed invention recites a blended hydrocarbonaceous product comprising a Fischer Tropsch derived product and an ***effective amount of a temporary antioxidant*** such that the blended product has a peroxide number of less than 5 ppm after 7 days, wherein the temporary antioxidant is the ***only antioxidant*** present in an effective amount in the blended hydrocarbonaceous product. Accordingly, the temporary antioxidant is present in an amount such that it provides a blended product having a peroxide number of less than 5 ppm after 7 days and the temporary antioxidant is the only antioxidant present in an effective amount in the blended hydrocarbonaceous product.

Applicant respectfully submits that Alward does not disclose or suggest the presently claimed blended hydrocarbonaceous product comprising a Fischer Tropsch derived product and an ***effective amount of a temporary antioxidant*** such that the blended product has a peroxide number of less than 5 ppm after 7 days, wherein the temporary antioxidant is the ***only antioxidant*** present in an effective amount in the blended hydrocarbonaceous product.

Applicant respectfully submits that since Alward teaches using the organic sulfides only in combination with tetralin or alkyl substituted tetralin or mixtures thereof, Alward does not teach or suggest adding the organic sulfides, in the absence of tetralins, in an effective amount such that the blended product has peroxide number

of less than 5 ppm after 7 days. Since Alward discloses using organic sulfides in combination with tetralins, Applicant respectfully submits that Alward does not disclose or suggest the presently claimed blended hydrocarbonaceous product comprising an effective amount of a temporary antioxidant such that the blended product has a peroxide number of less than 5 ppm after 7 days wherein the temporary antioxidant is the only antioxidant present in an effective amount.

Accordingly, withdrawal of the rejection under 35 U.S.C. § 103(a) over Alward is respectfully requested.

Double Patenting

Claims 1-22 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,392,108 (O'Rear). As noted by the Examiner, Applicant will consider submitting a terminal disclaimer over the '108 patent under separate cover, as appropriate, once allowable subject matter has been agreed upon. Applicant notes that the filing of a Terminal Disclaimer is not to be construed as an admission of the propriety of the rejection on obvious double patenting. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

Conclusion

Without conceding the propriety of the rejections, the claims have been amended, as provided above, to even more clearly recite and distinctly claim Applicant's invention and to pursue an early allowance. For the reasons noted above, the art of record does not disclose or suggest the inventive concept of the presently claimed invention as defined by the claims.

In view of the foregoing amendment and remarks, reconsideration of the claims and allowance of the subject application is earnestly solicited. The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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